

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:19-cr-4-BO-1

UNITED STATES OF AMERICA,)
)
 v.)
)
 RAUL AYALA, JR.)
 _____)

ORDER

This matter comes before the Court on defendant's motion in limine. [DE 39]. The motion is DENIED.

BACKGROUND

On January 9, 2019, defendant was indicted for production of child pornography (Count One) and possession of child pornography (Count Two). The government filed a superseding indictment on February 6, 2020, charging the same counts.

At trial, the government intends to introduce evidence of defendant's past acts of molestation of one of the child pornography victims. Through the instant motion, defendant moves to exclude such evidence under Federal Rule of Evidence 402, arguing that it is not relevant to the crimes charged.

DISCUSSION

On Count One, the government must prove that defendant acted with the purpose of producing a visual depiction of sexually explicit conduct involving a minor. On Count Two, the government must prove defendant knowingly possessed child pornography.

At a minimum, the evidence the government seeks to admit is relevant to proving the *mens rea* requirements of Counts One and Two, which would be a permitted use under Federal Rule of Evidence 404(b). Defendant's motion is therefore denied.

CONCLUSION

For the foregoing reasons, defendant's motion [DE 39] is DENIED.

SO ORDERED, this 7 day of February, 2020.



TERRENCE W. BOYLE
CHIEF UNITED STATES DISTRICT JUDGE